

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

BERNELL JACKSON-ALLEYNE,)	
)	
Plaintiff,)	
)	
v.)	
)	CV415-326
SNF HOLDING COMPANY/)	
CHEMTALL,)	
)	
Defendant.)	

ORDER

In this employment discrimination case, the Court ordered Bernell Jackson-Alleyne to synthesize her Complaint (doc. 1) and her inadequate attempt at an amendment (doc. 5). Doc. 6 (Order warning of dismissal if she neglected to file a second amended complaint). Plaintiff filed a Second Amended Complaint, combining (for the most part) the allegations of her prior pleadings.

Jackson-Alleyne alleges that she was terminated from her job with at a chemical plant, SNF Holding Company, in violation of the Age Discrimination in Employment Act (ADEA) and the Americans with Disabilities Act (ADA). She filed a charge with the Equal Employment

Opportunity Commission (EEOC) and received a right to sue letter (not attached to the Complaint) on September 30, 2015. She alleges she worked as a forklift operator for three months in 2014, left on an approved medical leave for surgery, and returned after five months and was placed back in her original position. She was unable perform her job, however, and requested to be put on light duty work. A human resources manager informed Jackson-Alleyne that defendant did not have any available light duty work, and she was terminated because her physician would not release her to full duty work. She was then replaced by a “much younger employee without disabilities.” Doc. 9 at 4.

Plaintiff has pled enough facts for this Court to greenlight service of her Second Amended Complaint. Hence, the defendant will have to be served with Fed. R. Civ. P. 4 process. To that end, the Court will implement the service procedure deployed in *Newton v. Food Lion, LLC*, CV415-153 doc. 10 (S.D. Ga. Dec 9, 2015) and *Simmons v. Five Star Quality Care, Inc.*, CV414-203, 2014 WL 6603759 at * 4 (S.D. Ga. Nov. 19, 2014), *adopted*, 2015 WL 307003 (S.D. Ga. Jan. 23, 2015).

That process unfolds in stages. Since the Court has authorized IFP status for Jackson-Alleyne, Rule 4 service must be made by the United

States Marshals Service. Fed. R. Civ. P. 4(c)(3) (the court “must” order that service be made by the Marshal “if the plaintiff is authorized to proceed [IFP]”). But the Marshal needs to know where to serve the defendant, and that information must come from the plaintiff. Hence, these preliminary steps are required: The Clerk shall send to plaintiff a USM 285 form and a summons form. Within *twenty-one days* of that mailing, plaintiff must *accurately* complete both forms¹ and return them to the Clerk, who will then forward a copy of each to the defendant. The Clerk is instructed to notify the undersigned if plaintiff fails to comply. Should plaintiff fail to comply, this action may be dismissed for failure to obey a Court order. Local Rule 41.1.

Should that phase of the Rule 4 service cycle be completed, the Clerk will then prepare a service waiver package for the defendant. Rule 4(d)(1). That package must include: a Rule 4 Notice of Lawsuit and Request to Waive Service of Summons² (prepared by the Clerk); two

¹ Both forms require the plaintiff to list the defendant’s name and proper address. These forms may be addressed “to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process.” Fed. R. Civ. P. 4(d)(1)(A)(ii). A corporation’s principal office address can be found here: <https://ecorp.sos.ga.gov>.

² The Clerk also shall complete the lower portion of the AO 398 Notice of Lawsuit and Request for Waiver form by printing plaintiff’s name and also her address data.

copies of the Waiver of the Service of Summons form (prepared by the Clerk); an envelope addressed to the Clerk of Court with adequate first class postage for use by the defendant for return of the waiver form; one (1) copy of the Complaint; and one (1) copy of this Order. The Clerk shall retain and docket the original USM 285 forms and the summons returned by the plaintiff. *See Dunn*, 2014 WL 1028949 at * 3.

Next, the Clerk shall mail the service waiver package to the defendant. The defendant is under a duty to avoid unnecessary costs of personally serving the summons. If it fails to comply with the mailed request for waiver of service, it must bear the costs of personal service unless good cause can be shown for failure to return the Waiver of Service form. Should the defendant fail to waive service within sixty (60) days following the date the service waiver package was mailed (the Clerk shall docket that act), the Clerk will prepare and transmit to the Marshal a service package. The service package must include the USM 285 form, the summons, and one (1) copy of the complaint, plus a copy of this Order. The Marshal will then promptly serve the defendant. The executed waiver form or the completed USM 285 form shall be filed with the Clerk. *See Dunn*, 2014 WL 1028949 at * 2-3.

Once plaintiff's Second Amended Complaint is served upon the defendant, she must then serve defendant (through its counsel, if it is represented) a copy of every additional pleading or other document which she files with the Court. *See* Fed. R. Civ. P. 5. She also shall include with each paper so filed a certificate stating the date on which she mailed an accurate copy of that paper to the defendant or its counsel. This Court will disregard any papers submitted which have not been properly filed with the Clerk or which do not include a certificate of service.

Finally, Jackson-Alleyne also must keep the Court and any defendant advised of her current address at all times during the pendency of this action. Failure to do so may result in dismissal of her Complaint. She also must litigate this case, conduct and respond to any discovery, and comply with both the Federal Rules of Civil Procedure and this Court's Local Rules, which are available online: <http://www.gasd.uscourts.gov/lr/lr1.htm>.

SO ORDERED, this 25th day of October, 2016.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA